

LAW OFFICES OF ALLEN A. KOLBER, ESQ.  
Attorneys for Debtors  
134 Rt. 59, Suite A  
Suffern, NY 10901  
(845) 918-1277  
Allen A. Kolber, Esq. (AK0243)

**Hearing Date: March 27, 2020**  
**Hearing Time: 10:00 a.m.**

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

\_\_\_\_\_  
**In Re:**

**Chapter 11**

**AARON BROWN**

**Case No. 19-23581(rdd)**

**Debtor.**

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X

**NOTICE OF MOTION FOR AN ORDER PURSUANT TO 11 U.S.C. §§506(a) AND  
506(d) DETERMINING THE AMOUNT OF SECURED CLAIM #11 OF SN SERVICING  
CORPORATION, AS SERVICER FOR U.S. BANK TRUST NATIONAL ASSOCIATION  
AS TRUSTEE OF THE CHALET SERIES III TRUST, WITH RESPECT TO INVESTMENT  
PROPERTY LOCATED AT 29 SUMMIT AVENUE, SPRING VALLEY, NY 10977**

**AND OBJECTING TO CLAIMS PURSUANT TO 11 U.S.C. § 502 AND FEDERAL RULE  
OF BANKRUPTCY PROCEDURE 3007**

**S I R S:**

**PLEASE TAKE NOTICE** that the upon the annexed Affidavit of Debtor AARON BROWN ,  
and his attorney, Allen A. Kolber, Esq., and all Exhibits therein, seeking the entry of an Order pursuant to  
11 U.S.C. §§ 506(a), 506(d) and 502 (a)(1). and Federal Rule of Bankruptcy Procedure 3007, a hearing  
will be held on **March 27, 2020, at 10:00 a.m.** before the Honorable D. Drain, United States Bankruptcy  
Judge, at the United States Bankruptcy Court for the Southern District of New York, 300 Quarropas  
Street, White Plains, New York 10601, as follows:

- (a) Valuing the secured lien held by SN SERVICING CORPORATION, AS  
SERVICER FOR U.S. BANK TRUST NATIONAL ASSOCIATION AS  
TRUSTEE OF THE CHALET SERIES III TRUST against the Debtor's real  
property located at 29 Summit Avenue, Spring Valley, NY 10977 at \$300,000.00  
and

(b) Reclassifying the unsecured claim of SN SERVICING CORPORATION, AS

SERVICER FOR U.S. BANK TRUST NATIONAL ASSOCIATION AS

TRUSTEE OF THE CHALET SERIES III TRUST at \$204,595.58, and

(c) for such other and further relief as to this Court may seem just and proper

**PLEASE TAKE FURTHER NOTICE** that objections, if any, to the relief Debtor seeks to obtain must be in writing, conform to the requirements of the Bankruptcy code, the Bankruptcy Rules and the Local Rules of the United States Bankruptcy Court for the Southern District of New York, and must be filed and served no later than three (3) business days prior to the hearing date (“Objection Deadline”).

**PLEASE TAKE FURTHER NOTICE**, that answering affidavits, if any, must be served so as to be received not later than seven (7) days before the return date of this Motion.

**PLEASE TAKE FURTHER NOTICE** that pursuant to General Order M-182, any objection filed by parties with representation shall be filed on or before the objection Deadline (i) through the Bankruptcy Court’s Electronic Filing System which may be accessed at the Bankruptcy Court’s internet web at <http://www.nysb.uscourts.gov>, and (ii) in portable document format (PDF) using Adobe Exchange Software for conversion.

**PLEASE TAKE FURTHER NOTICE** that any party that is either without legal representation, or that is unable to file documents electronically or create documents in PDF format, shall file its objection on or before the objection Deadline in either Word, WordPerfect or DOS text (ASCII) format on 3-1/2” floppy diskette in an envelope clearly marked with the case name, case number, type and title of document, document number of the document to which the objection refers and the file name of the documents.

**PLEASE TAKE FURTHER NOTICE** that a “hard copy” of any objections must be hand delivered to the Chambers of the Honorable Robert D. Drain at the United States Bankruptcy Court, 300 Quarropas Street, White Plains, New York 10601 on or before the Objection Deadline.

**PLEASE TAKE FURTHER NOTICE** that objections, if any, must be served in accordance

with the provisions of General Order M-182 so that they are received on or before the Objection

Deadline by The Law Offices of Allen A. Kolber, Esq., 134 Rt. 59, Suite A, Suffern, NY 10901

Dated: Rockland County, New York

January 7, 2020

/s/ Allen A. Kolber

ALLEN A. KOLBER, ESQ.

Attorney for Debtor Aaron Brown

134 Route 59, Suite A

Suffern, NY 10901

(845) 918-1277

TO: Susan A. Arbeit, Esq.  
U.S. Trustee's Office  
U.S. Federal Office Building  
201 Varick St., Room 1006  
New York, NY 10014

Jonathan Schwalb, Esq.  
Friedman Vartolo, LLP  
Attorneys for SN Servicing Corporation,  
As Servicer For U.S. Bank Trust National Association  
As Trustee Of The Chalet Series III Trust  
85 Broad Street, Suite 501  
New York, NY 10004

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

**Hearing Date: March 27, 2020  
Hearing Time: 10:00a.m.**

\_\_\_\_\_  
**In Re:**

**AARON BROWN ,**

**Chapter 11**

**Case No. 19-23581(rdd)**

**Debtor.**

\_\_\_\_\_  
**TO THE HONORABLE ROBERT D. DRAIN  
UNITED STATES BANKRUPTCY JUDGE:**

**DEBTOR’S APPLICATION FOR AN ORDER PURSUANT TO 11 U.S.C. §§506  
AND 506(d) DETERMINING THE AMOUNT OF SECURED CLAIM #11 OF SN SERVICING  
CORPORATION, AS SERVICER FOR U.S. BANK TRUST NATIONAL ASSOCIATION AS  
TRUSTEE OF THE CHALET SERIES III TRUST, WITH RESPECT TO INVESTMENT  
PROPERTY LOCATED AT 29 SUMMIT AVENUE, SPRING VALLEY, NY 10977**

**AND OBJECTING TO CLAIMS PURSUANT TO 11 U.S.C. § 502 AND FEDERAL RULE  
OF BANKRUPTCY PROCEDURE 3007**

Debtor AARON BROWN, by his attorney of record, Allen A. Kolber, Esq., and in support of his  
Motion to determine the secured status of a mortgage loan on Debtor’s Investment Property, states as  
follows:

**Factual Allegation:**

1. The Debtor filed a Petition for relief under Chapter 11 of the United States Bankruptcy Code on  
September 5, 2019.
2. The Debtor is the owner of certain real property located at 29 Summit Avenue, Spring Valley,  
NY 10977 (“the Property”), and maintains this property as an investment property.
3. A copy of the Deed is annexed hereto as Exhibit “A”.

**Mortgage on the Investment Property:**

4. At the time of the filing of the Petition herein, said property was encumbered by a mortgage in  
favor of SN SERVICING CORPORATION, AS SERVICER FOR U.S. BANK TRUST  
NATIONAL ASSOCIATION AS TRUSTEE OF THE CHALET SERIES III TRUST (“SN

SERVICING”) with an alleged balance of \$504,595.58 (**See Proof of Claim #11 filed by**

**Debtor**, showing a balance due of \$504,595.58 at the time of the bankruptcy filing.)

**Appraisal of Residential Real Estate:**

5. On or about April 20, 2018, Yehuda Gestetner, a New York State Certified Real Estate Appraiser, performed an appraisal of the Investment Property and determined it to have a fair market value of \$300,000.00. Annexed hereto as Exhibit “B” is a copy of said Appraisal.
6. **Based on the foregoing Appraisal, Debtor submits that the fair market value of the Investment Property is \$300,000.00.**
7. The SN SERVICING mortgage on the home exceeds the appraised value on the Investment Property by \$204,595.58.

**The Mortgage and Judgment lien held by SN Servicing Corporation, As Servicer for U.S. Bank Trust National Association as Trustee of The Chalet Series III Trust should be bifurcated into a secured claim of \$300,000.00 and an unsecured claim of \$204,595.58**

8. Section 506(a) of the United States Bankruptcy Code provides, in pertinent part:

“(a) An allowed claim of a creditor secured by a lien on property in which the estate has an interest . . . is a secured claim to the extent of the value of such creditor’s interest in the estate’s interest in such property . . . and is an unsecured claim to the extent that the value of such creditor’s interest . . . is less than the amount of such allowed claim . . . . Such value shall be determined in light of the purpose of the valuation and of the proposed disposition or use of such property, and in conjunction with any hearing on such disposition or use or on a plan affecting such creditor’s interest. “ 11 U.S.C. § 506(a).

9. Section 506(d) of the United States Bankruptcy Code provides, in pertinent part:

“(d) To the extent that a lien secures a claim against the debtor that is not an allowed secured claim, such lien is void . . .”

10. In the instant case, secured claim #11 of SN SERVICING relating to the Investment Property should be bifurcated into a secured claim and lien of \$300,000.00 and an unsecured claim of \$204,595.58 (*see* 11 U.S.C. § 506(a) and *In re Thompson*, 352 F.3d 419 (2d Cir. 2003).
11. The facts and circumstances set forth herein do not present novel issues of fact or law and Debtor respectfully requests the Court to waive the requirement of filing a Memorandum of Law.

**WHEREFORE**, it is respectfully requested that Debtor's relief be granted in full and for such other and further relief that this Court may deem just and proper.

Dated: Rockland County, New York  
January 7, 2020

LAW OFFICES OF ALLEN A. KOLBER, ESQ.

By: /s/ Allen A. Kolber

Allen A. Kolber (AK0243)  
Attorneys for Debtor Aaron Brown  
134 Rt. 59, Suite A  
Suffern, NY 10901  
(845) 918-1277

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

\_\_\_\_\_  
**In Re:**

**AARON BROWN ,**

**Debtor.**

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X

**Chapter 11**

**Case No. 19-23581(rdd)**

**TO THE HONORABLE ROBERT D. DRAIN  
UNITED STATES BANKRUPTCY JUDGE:**

**APPLICATION OF DEBTOR AARON BROWN**

AARON BROWN, being duly affirmed, deposes and states under the penalties of perjury:

1. On September 5, 2019, I filed a Voluntary Chapter 11 Petition.
2. I reside at 58 North Cole Avenue, Spring Valley, NY 10977.
3. I own a house located at 29 Summit Avenue, Spring Valley, NY 10977 (the "Investment Property"). A copy of the Deed is annexed hereto as Exhibit "A".

**WHEREFORE**, I respectfully request that the Court grant my Motion to bifurcate Claim #11 of SN SERVICING CORPORATION, AS SERVICER FOR U.S. BANK TRUST NATIONAL ASSOCIATION AS TRUSTEE OF THE CHALET SERIES III TRUST into a secured claim and lien of \$300,000.00 and an unsecured claim of \$204,595.58, and for such other and further relief as to this Court may seem just and proper.

/s/ AARON BROWN  
AARON BROWN

Affirmed before me this  
January 7, 2020

/s/ Allen A. Kolber  
NOTARY PUBLIC, State of New York  
No. 02KO4972647  
Qualified in Rockland County  
Commission Expires December 29, 2022

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

\_\_\_\_\_  
**In Re:**

**AARON BROWN ,**

**Chapter 11  
Case No. 19-23581(rdd)**

**Debtor.**

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**X**

**ORDER DETERMINING AMOUNT OF SECURED CLAIM #11 OF SN SERVICING CORPORATION, AS SERVICER FOR U.S. BANK TRUST NATIONAL ASSOCIATION AS TRUSTEE OF THE CHALET SERIES III TRUST, PURSUANT TO 11 U.S.C. §§ 506(a) AND (506(d) AND FED.R.BANKR.P. 3007 WITH RESPECT TO THE MORTGAGE ON INVESTMENT PROPERTY LOCATED AT 29 SUMMIT AVENUE, SPRING VALLEY, NY 10977**

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AARON BROWN (the “Debtor”), by his attorney, Allen A. Kolber, Esq., having served and filed a Motion dated **January 7, 2020** in support of an Application to determine the secured status of and to reclassify the lien of SN SERVICING CORPORATION, AS SERVICER FOR U.S. BANK TRUST NATIONAL ASSOCIATION AS TRUSTEE OF THE CHALET SERIES III TRUST, on Debtor’s Investment Property located at 29 Summit Avenue, Spring Valley, NY 10977 (“Investment Property”), and there being due and sufficient notice of the Motion and the hearing thereon; and upon the record of the hearing on the Motion; and there being no opposition to the Motion; and after due deliberation it appearing that the value of the Investment Property is \$300,000.00 and that there is \$300,000.00 of collateral securing the mortgage held by SN SERVICING CORPORATION, AS SERVICER FOR U.S. BANK TRUST NATIONAL ASSOCIATION AS TRUSTEE OF THE CHALET SERIES III TRUST , and due and sufficient cause appearing, it is hereby

**ORDERED**, that the Motion is granted and further;

**ORDERED** that the secured claim #11 of SN SERVICING CORPORATION, AS SERVICER FOR U.S. BANK TRUST NATIONAL ASSOCIATION AS TRUSTEE OF THE CHALET SERIES III TRUST relating to the Investment Property should be bifurcated into a secured claim and lien of \$300,000.00 and an unsecured claim of \$204,595.58 (*see* 11 U.S.C. § 506(a) and *In re Thompson*, 352



F.3d 419 (2d Cir. 2003). If any amendment to such claim is filed that increases the amount of such claim,

any such increase shall also be treated as an unsecured claim.

Dated: White Plains, New York

\_\_\_\_\_, 2020

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HONORABLE ROBERT D. DRAIN  
UNITED STATES BANKRUPTCY JUDGE